



June 8, 2005

Amendments to the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act for Fiscal Year 2006 (H.R. 2744) — (Part III)

The following additional amendments are in order to be offered under a unanimous consent agreement, but could still be subject to points of order.

- An amendment by Mr. Hefley, regarding an across-the-board cut;
- An amendment by Mr. Tiahrt, regarding regulations;
- An amendment by Mr. Brown of Ohio regarding school food program;
- An amendment by Mr. Kucinich, regarding genetically engineered fish;
- An amendment by Mr. Kucinich, regarding BSE testing;
- An amendment by Mr. Weiner, regarding minimum guarantees for agriculture funding for states;
- An amendment by Mr. Stupak, regarding FDA clinical trials;
- An amendment by Mr. Stupak regarding FDA whistleblowers;
- An amendment by Mrs. Kaptur regarding Emerald Ash borer; and
- An amendment by Mr. Garrett regarding 213A of the Immigration and Nationality Act.

Hefley (R-CO). Reduces the appropriated funds in the bill by \$168,320,000. This would result in an across-the-board cut of 1 percent.

Tiahrt (R-KS). The amendment states, “None of the funds made available in this Act may be used to promulgate regulations without consideration of the effect of such regulations on the competitiveness of American businesses.” According to the sponsor, the amendment will be offered and withdrawn, but is offered to have a discussion on the agencies’ responsibility to take into account effects on US competitiveness when making regulations.

Brown (D-OH). Prohibits the use of funds to “be used, after December 31, 2005, to purchase chickens, including chicken products, under the Richard B. Russell National School Lunch Act or the Child Nutrition Act of 1966, unless the Secretary shall take into account whether such purchases are in compliance with standards relating to the wholesomeness of food for human consumption, pursuant to section 14(d) of the Richard

B. Russell National School Lunch Act (42 U.S.C. 1762a(d)).” The highlighted portion above appears to be a restatement of current law, and thus this part alone may not make the amendment subject to a point of order.

Kucinich (D-OH). Prohibits funds appropriated for the Food and Drug Administration to be used for “the approval or process of approval, under section 512 of the Federal Food, Drug, and Cosmetic Act, of an application for an animal drug for creating transgenic salmon or any transgenic fish.” According to a Google search, “transgenic fish” are also known as “genetically modified” fish.

Kucinich (D-OH). Directs the Department of Agriculture, when requested by a producer or processor, to “test ruminants, ruminant products, and ruminant by-products for the presence of bovine spongiform encephalopathy, subject to reimbursement by the producer or processor of the costs incurred by the Department to conduct the test,” and prohibits the use of funds to be used “to pay the salaries and expenses of personnel of the Department to enforce any regulatory prohibition on such testing by the Department of Agriculture of ruminants, ruminant products, or ruminant by-products for the presence of bovine spongiform encephalopathy.”

According to the sponsor, he “will not be calling for votes on these amendments.”

Weiner (D-NY). Inserts the following at the end of the bill: “Using funds that would otherwise be paid during fiscal year 2006 with regard to cotton, tobacco, and rice production, the Secretary of Agriculture shall make grants to the several States in an amount, for each State, equal to at least 0.75 percent of such funds, to be distributed to active agricultural producers in the State in a manner approved by the Secretary.”

According to the sponsor, there will likely be a point of order raised against the amendment.

Stupak (D-MI). Clinical Trials Amendment: According to the sponsor, “The first section of the amendment forbids the FDA from allowing IND (investigational new drug) approvals to stay in effect if the clinical trials included in that IND approval are not listed on clinicaltrials.gov, in compliance with federal law. The second section of the amendment forbids the FDA from approving a drug for commercial use if the clinical trials that were required in order to gain that approval are not listed on clinicaltrials.gov, in compliance with federal law.” The text reads as follows:

None of the funds made available in this Act may be used by the Secretary of Health and Human Services to keep in effect an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act for a clinical trial that concerns a serious or life-threatening disease or condition and is not included in the registry of such trials under section 402(j) of the Public Health Service Act.

SEC. 7__. None of the funds made available in this Act may be used by the Secretary of Health and Human Services to approve an application under section 505(b)(1) of the Federal Food, Drug, and Cosmetic Act that-

(1) is for a drug for a serious or life-threatening disease or condition; and
(2) is under subparagraph (A) of such section supported by a clinical trial that-

- (A) has received an exemption under section 505(i) of such Act; and
- (B) is not included in the registry of clinical trials under section 402(j) of the Public Service

Stupak (D-MI) – Whistleblower Amendment: Inserts the following at the end of the bill: “None of the funds made available in this Act may be used by the Food and Drug Administration to conduct any investigation of, or take any employment action against, an officer or employee of the Food and Drug Administration pursuant to the officer or employee providing to the Congress or the public information or opinions that concern such Administration and are not prohibited from disclosure under section 301(j) of the Federal Food, Drug, and Cosmetic Act.”

According to the sponsor, “the amendment forbids the use of funds by the FDA to conduct any investigation of or take any action against an FDA employee who provides information to the public when that information is not prohibited from being released under the law.”

Kaptur (D-OH). Emerald Ash borer Amendment: According to the sponsor, they have no information regarding the amendment and it will likely not be offered on the floor.

Garrett (R-NJ). Prohibits funds to be expended under the Food Stamp Program that would violate “section 213A of the Immigration and Nationality Act (8 U.S.C. 1183a).” This section of the Immigration and Nationality Act discusses admission qualifications for aliens and sponsorship. Specifically, the Act states “Upon notification that a sponsored alien has received any means-tested public benefit, the appropriate nongovernmental entity which provided such benefit or the appropriate entity of the Federal Government, a State, or any political subdivision of a State shall request reimbursement by the sponsor in an amount which is equal to the unreimbursed costs of such benefit.” Essentially, the amendment restates the enforcement of current law.

According to the sponsor, currently, an alien’s sponsor, not the Federal government is responsible for the welfare of the alien. The amendment prohibits any funding from the bill to provide food stamps to aliens pursuant to the restrictions of the previous mentioned section of USC. Providing this funding would put us in non-compliance with Federal law. 8 USC 1183a says that an affidavit of support must be filed by a sponsor on behalf of an alien. This affidavit of support is a legally binding guarantee on the part of the sponsor that the immigrant they are sponsoring will not become a “public charge” - i.e., dependent on welfare programs - for ten years or up to the point they become a citizen, whichever happens first. The amendment simply states that we comply with current Federal law.

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